The demise of Industrial Councils: *social and economic effects**

TAFFY ADLER of the Labour and Economic Research Centre (LERC) argues that deregulation, and in particular the dismantling of industrial council pension funds, puts the provision of retirement benefits at risk. Instead of spurring on economic regeneration, he argues, deregulation will increase poverty in South Africa.

1. Introduction

It is a failure to combine the specific with the general which allows us to miss very significant contradictions in state policy. We very often discuss specific state policies *in isolation. A focus on retirement* benefits show that the policy and activities of the Departments of Manpower, Social Welfare and Pensions, and Finance are adopting very different approaches.

* *This is an edited version of a paper presented to the Third Annual Labour Law Conference on Collective Bargaining, Deregulation and Democracy in Durban, 1990*

On the one hand, we have the Department of Manpower approving vigorously of deregulation as a policy. On the other hand, those government departments dealing with the provision and financing of social welfare are clearly worried by the lack of national regulation of pension provision. I will discuss this very real conflict of interests in the state later in my paper.

2. Deregulation and Industrial Councils

Let us begin by discussing deregulation and its effect on industrial councils.

Industrial Councils are a significant social institution in our country. They cover a large number of workers in very important and strategically located sectors of the economy. In 1989 there were 94 registered Industrial Councils, administering 138 Industrial Council Agreements covering 945 178 workers (this figure takes into account the 311 136 workers covered in the Industrial Council for the Iron, Steel and Metallurgical Industry whose agreement was, as a result of industrial conflict both between the parties and the Minister of Manpower, not registered at the time) (Dept of Manpower, Annual Report, 1989, para 1.29).

If we exclude agriculture and mining, where no industrial councils exist, then industrial council agreements cover just over one-fifth of the workforce in the non-primary sectors of the South African economy (Figures derived from CSS, 1990).

The industrial council system is significant not only because it is large, but also because it is strategically located in the manufacturing sector of the economy. The road to economic recovery lies in the development of our manufacturing capacity, and industrial council agreements have an important effect on both production and consumption. They make up some of the costs of production which any enterprise would need to take into account. They are also responsible for the levels of economic well-being of the workforce falling directly within their control.

For some time now, industrial councils have been under attack by both the official policy of deregulation, and by those employers and employer organisations who favour deregulating the industrial relations system. Deregulation, it is said, will remove protective regulations which are seen to hinder investment, economic growth and employment expansion. The first decisive official step towards deregulation was the Temporary Removal of Economic Relations Act in 1986. The Act allows state regulations to be removed from, amongst other things, minimum wages, health and safety, employment benefits and building standards.

The Department of Manpower has wholeheartedly supported this policy. In 1989, the Department's Annual Report noted,

"In accordance with Government policy with regard to deregulation, the stimulation of the small business sector and employment creation, a close watch is kept on those provisions which can hamper economic activity in order to adapt such provisions or remove them from agreements."

A year earlier, in 1988, the Department reported that a total of 13 829 applications for exemptions from agreements were received by industrial councils. Of these 86% were granted in full, 3% in part, and 6% were refused. The nature of these exemptions was generally to exclude small employers from the scope of the agreement or to allow for plant by plant negotiations.

The Department's lead has been followed by a number of individual employers, large corporations and employer organisations. Led most aggressively by Barlow Rand, there has been a sustained attack on the regulation of industry through industrial agreements. The effect of this policy has been either to undermine or to destroy a significant number of industrial councils.

In 1988, for example, many Barlow Rand subsidiaries, who comprise the largest group of employers in the metal industry, withdrew from the employers organisa-

Injured worker: deregulation means state health and safety controls can be removed

Photo: Cedric Nunn/Afrapix

tion, SEIFSA. As this industrial council agreement applies to non-parties, workers in those Barlow companies which have withdrawn remain covered by the conditions laid down in the agreement. However, the withdrawal has allowed employers to question the status

Barlow Rand - leading the attack on the regulation of industry

of the council. The Minister of Manpower, waking up after 62 years, suddenly became concerned that the industrial council was not representative of the industry and, in 1988, included this reason amongst his grounds for delaying the gazetting of the agreement in that year (Toerien, 1989).

The companies who withdrew have also held that, as non-parties, they cannot be affected by any legal strike action arising out of a failure to agree within the industrial council. Such a view, irrespective of its legality clearly undermines the effectiveness of the Steel and Engineering Industrial Council, the largest council in the country.

Industrial councils which have actually collapsed in the wake of employer withdrawals include the National Industrial Council for the Paper and Printing Industry, the Cotton Textile Industrial Council in the Cape, the Liquor and Catering Industry for the Witwatersrand and Vereeniging and the Chemical Manufacturing Industry

(Pretoria and Witwatersrand). The Paper and Printing Council was the oldest council in existence. Their first national agreement was signed in November 1919 and provided a model for the Industrial Council system from 1924.

Let us now count the costs of this policy. Available figures indicate that 856 044 workers are affected by deregulation exemptions granted by industrial councils. It is not possible to say what percentage this is of all workers covered by industrial council agreements. However, even in absolute terms the numbers are significant. In addition, workers no longer covered by industrial council agreements as a result of the break up of those councils number 56 367. This figure would increase dramatically if the Steel and Engineering Industrial Council, which covers approximately 260 000 workers, were to fall foul of the deregulators.

This has an obvious effect on the wages and earning capacities of workers in the sectors of industry affected. The most well organised workers are the highest paid. Workers in small, unorganised factories are faced with low wages and poor working conditions. Industrial councils have obviously ensured comparatively higher minimum wages and better working conditions. But they also have a ripple effect, so that poorly organised or disorganised workers get the benefit of those conditions which apply to their better organised colleagues. Many have stated that this is precisely what deregulation is intended to undermine (Nicol,1986; Toerien,1989)

3. Deregulation and retirement benefits

Deregulation, and in particular the collapse of individual industrial councils, has had an effect on retirement provision. Why discuss retirement benefits rather than other wage and non- wage benefits provided by industrial councils?

Firstly, retirement benefits account for the largest proportion of all welfare spending, not only in this country (Lund, 1990), but in most countries in the world (OECD,1988). Secondly, the nature of existing retirement benefits allows for a discussion of a number of important themes which are currently being hotly debated in South Africa. These include joint decision making between unions and employers and socially responsible investment. Finally, an analysis of the provision of retirement benefits reveals most dramatically the contradictions which are generally inherent in the current policy of deregulation.

4. Retirement provision in South Africa

Unless otherwise stated, my figures are derived from the 1987 Report of the Registrar of Pensions, which is the latest available.

There are three general forms of retirement provision in South Africa: the social old age pension provided directly by the state; pension schemes covering members of the civil service, including those arch-robbers in this area, members of parliament; and private schemes administered by individual enterprises, industrial councils or the insurance industry.

The **social old age pension** is funded directly from current state revenue on a pay-as-you-go basis. Pay-as-you-go in effect means that those currently earning income and paying tax are directly funding those who are on pension. In 1990 it was estimated that the state social security system spent R3,6 billion on social old age pensions. This figure would include all amounts spent by the various own affairs administrations, provincial administrations and homeland governments (Lund,1990). The number of old people on state pensions at the end of 1987 was 880 000 or 75% of those over the age of 65 (These figures exclude the TBVC* states). Individual state pensions are currently R182,54 pm for

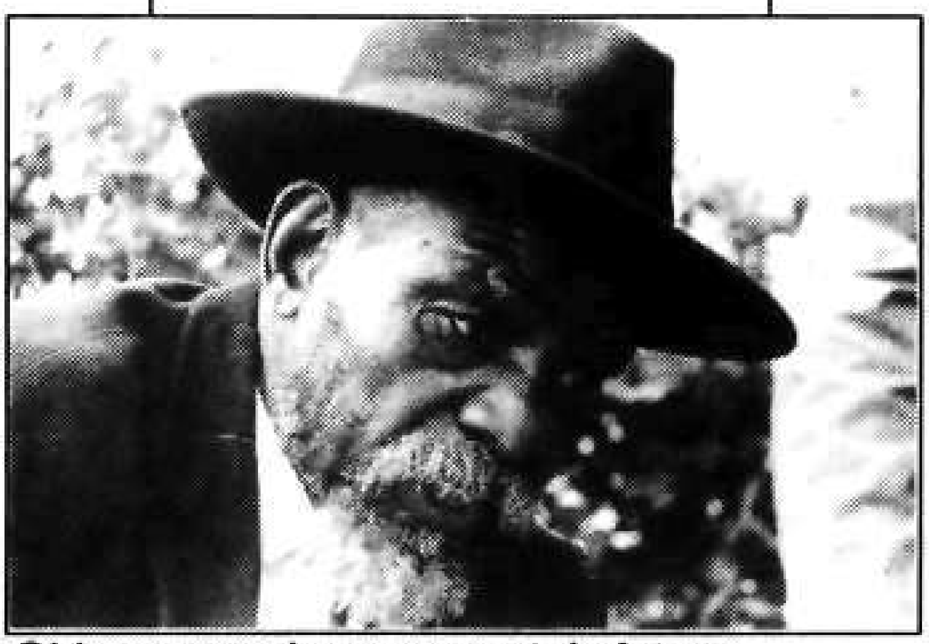
* *TBVC = Transkei, Bophuthatswana, Venda and Ciskei*

black pensioners, R243,33 pm for coloured and Indians and R294,75 pm for white pensioners (*Daily Mail*, 18/07/1990).

The pension schemes of **civil servants and public corporations** such as the Post Office and what used to be called SATS are funded in theory from contributions by the members and the employers, in this case the state or the state corporations. However, political expediency has permitted policies, such as the buyback of pensionable service, which have a major impact on the ability of any fund to meet its future pension obligations. Dr. Andries Wassenaar has estimated the actuarial deficits of civil service and associated funds to be in the region of R40 billion (Wassenaar 1989, p92).

To date the state has assumed responsibility of ensuring that civil servants get their pension. In other words, the tax payer is required to foot the bill. The assets of the state funds in 1987 were R20 million with 85 589 contributing members and 11 716 pensioners. Annual pension expenditure in 1987 by the civil service funds was R3,1m while the average monthly pension was R267,65

Finally we have **private pension funds** which would include those funds administered by insurance companies, private corporations and of course, industrial councils. These schemes are generally funded by contributions from members and employers. While in theory employers in many pension funds would be required to carry the can for any deficits, in practice most schemes have been substantially in surplus over the past twenty years. Indeed the assets of the retirement fund industry, excluding the state's social old age pension, are currently estimated to be over R100 billion. This



Old-age pensioner: uncertain future...

Photo: Peter auf der Heyde/Afrapix

amount, to put it into perspective, is larger than the 1990/91 total state budget of R72,9 billion.

Figures provided by the Registrar of Pensions show that private pension funds had 4 561 796 contributing members and 402 878 pensioners. The average monthly pension provided by self administered funds was R265,69 while that provided by underwritten funds was R186,45. The annual expenditure in that year would have been R54,4m for self administered funds and R36,9m for underwritten funds.

It should be noted that these figures exclude those funds administered by industrial councils, as councils are not required to submit reports to the Registrar of Pensions. I shall deal with industrial council funds a little later.

While the figures quoted above are indeed impressive in relation to total assets, they are not so hot in relation to actual pensions paid or the number of pensioners covered. With the average pension ranging between R150pm and R250pm, it is no wonder that old people are on the march for a living pension. Existing pension provision also falls far short of need in terms of the number of ***potential*** pensioners covered. While 80% of those in formal employment are currently covered by retirement funds, this is only 48% of the economically active workforce. Unemployed but economically active people are obviously not covered by a private pension scheme. The state would therefore theoretically be required to provide pensions for 52% of the population. This figure, calculated for 1987, excludes the TBVC. If these areas were included the number of people requiring state provision would undoubtedly increase.

When one looks to the future, an even larger problem looms, not merely in terms of the number of people being covered, but also in relation to the means to provide for them.

The number of people over the age of 65 as a percentage of the total population is growing. From 1 087 000 (3,8% of population) in 1980 their number will grow to 3 805 000 (5,77% of population) by the year 2020.

On the other hand, the number of people between the ages of 20 and 64 is growing smaller as a percentage of the population. On the pay-as-you-go system, it is this group who provide the revenue from which the state will pay social old age pensions.

Rising unemployment will also negatively affect state income and its ability to pay pensions. From an estimated 30% level of unemployment in 1990, the number of unemployed is expected to increase to around 50% by the year 2000.

This combination of an ageing population and a declining number of people in employment suggests that there will be a major crisis in the future. It means an increase in the dependency ratio, ie, the number of dependents supported by the gainfully employed population. This ratio is expected to increase from 8,4 in 1980 to 9,5 in 2015. The increase in the aged population, it has been estimated, will also require a rise in state expenditure on pensions from R3,6 billion to over R7,7 billion, some 113%, by the year 2000 (Moller, 1986). Our problem here, again in common with most other countries of the world, arises from the need to foot an increasing pension bill with smaller numbers of people able to contribute towards this.

5. The role of industrial councils

Against this background of the general under- provision of pension benefits, we need to evaluate the role of industrial councils in providing retirement benefits.

In 1989, 971 156 workers were covered by pension and provident funds governed by industrial council agreements. This amounts to 21% of the workforce in the manufacturing and service sectors and almost 18% of all members of registered pension funds in the country. Industrial council funds therefore provide significant cover in a generally under-provided area. This role was underlined by the Department of Manpower which, in its 1989 Annual Report stated, "If these funds had not been established, the Treasury would eventually have had to bear a considerable additional burden." (para 1.29 p 28).

Any benefit provided by the industrial council depends on the existence of both an industrial council and an industrial council agreement. If the council dissolves, then automatically the benefit funds have to be liquidated. The demise of any council thus immediately puts the retirement benefits of the workers governed by that agreement at risk.

A preservation mechanism does exist in the Labour Relations Act. The balance remaining in the fund after the costs of liquidation can, at the discretion of the Industrial Registrar, be transferred to another fund established for the benefit of the employees in the industry. However, the exercising of the Registrar's decision depends on the whim of the parties to the council. They need to agree on an alternative fund, its rules and the manner in which the existing fund is to be liquidated.

It has been very difficult to resolve these issues in practice. Pension provision has been overshadowed by the vested interests of the parties participating in the fight which leads to the break-up of any particular council. These parties include not only the union and employers, but also the benefit administrators involved. In the area of benefit funds at least, pension provision has been the loser.

The most dramatic and public evidence comes from the break up of the Printing and Paper Industrial Council.

Blatant example: in order to keep the 'militant' PPWAWU out of the Industrial Council, employers withdrew and the Council consequently collapsed

Prompted by the desire of the employers and the trade union party in the council to keep the militant Paper, Printing, Wood and Allied Workers Union (PPWAWU) out of the council, the employers organisation withdrew and the council consequently dissolved. The dissolution agreement between the employers and the SA Typographical Workers Union (SATU) allowed for the transfer of the R667 million pension fund to a new fund which was established at the beginning of 1990. From this new fund, however, PPWAWU were excluded in the political interests of SATU, who wished to retain control as the union party over what is, after all, a *substantial benefit fund.*

However, as SATU have since found to their cost, without an industrial council agreement employers are no longer forced to contribute to the funds. Employers are no longer required either to provide pension benefits for their employees, nor are they required to motivate an exemption in terms of equal or better benefits from the main fund which was run under the authority of the industrial council agreement.

In a press report of 28 November 1989 SATU said that the exercise in which they deliberately participated was not fair. The chickens are now coming home to roost, and the losers are workers in the smaller print shops and paper plants where employers are trying to avoid their pension payments.

This has also happened in the Liquor and Catering Fund, where the number of contributing establishments dropped from 173 in the January 1989, to 104 in March 1990. Employers in this industry are notorious for their poor labour practices, low wages and bad working conditions. Where a large number of workers are in small establishments, employers have gone back on their previously legislated requirement to pay into what has, since the fall of the Industrial Council, become a voluntary fund.

Information related to the extent of deregulation in this area is hard to come by. To date we are aware of funds *involving R1 128m and a* total of 109 367 workers. The deregulation of the steel and engineering industry, which, as I have noted, has already been the target of deregulators, would place one of the largest pension funds in the country (covering approximately 260 000 members with assets of over R2,2 billion) at risk.

6. Pension provision, regulation and deregulation

The problems with pension provision as outlined in this paper have received official attention since at least 1964. Four official reports have thus far unsuccessfully attempted to solve the problem of pension provision. The Mouton Committee is currently considering the issue.

One theme that has run through every official report thus far is the proposition that money paid into existing pension schemes needs to be retained or preserved in these funds. **This proposal is, in effect, a call for national regulation of pension provision.** Its one aim is to prevent the depletion of private pension funds by the habit of South Africans to change jobs every seven years,on average, and drawing out and generally spending their pension savings (industry-wide retirement funds do in fact allow workers to change jobs without withdrawing their pension contributions as long *as they remain in, or return* to, the same industry). The more important reason for the call, however, is to reduce the pressure on the state to provide social old age pensions.

It should not surprise anyone that the policy of pension preservation has already been accepted by the present South African government. In 1981 the government acted on this policy position by attempting to force through parliament the Preservation of Pensions bill. The bill would have forced the preservation of private pensions. Widespread industrial action followed which revealed the depth of popular feeling on issues of social security and the role of the state in providing these. The government withdrew the bill in the face of this opposition and appointed the Meiring Commission to find an acceptable way of introducing the preservation of pensions.

What then are we to make of retirement provision, regulation and deregulation?

My first conclusion is that state inspired preservation of pensions through national regulation flies directly in the face of government policy on deregulation.

Secondly, deregulation in relation to industrial councils has placed, and indeed continues to place, the provision of retirement benefits at risk. In view of the existing levels of pension provision which I have described in this paper, such practice can only be called irresponsible.

Finally, if deregulation is intended to provide for economic regeneration, then this is clearly not what a detailed analysis of one aspect of deregulatory practice, namely that of pension provision by industrial councils, reveals. What we see is the depletion of pension resources which can only increase already existing levels of poverty in old age. Studies in other areas subject to deregulation, such as Darlene Miller's study in relation to small business, would seem to support this conclusion.

7. Economic regeneration, democracy and deregulation

I wish to conclude by looking at the issue of economic regeneration and democracy, both of which are supposed to be assisted by deregulation.

I have already described in the paper the impressive ability of retirement funds to accumulate capital. We are talking here of funds in excess of R100 billion. As has often been pointed out, a particular challenge facing South Africa is the need to ensure that this capital is pulled out of the speculative paper chase that constitutes the Johannesburg Stock Exchange, and placed in productive investment.

Retirement funds on which union nominated trustees sit have taken a lead in attempting to find secure, socially responsible investment opportunities. The Metal Industries Group Pension Fund (an industrial council fund it should be stressed) has recently made what is probably the first direct investment in black housing. An amount of R10m was placed in serviced land on a secure basis with a market related return. It is not possible to make investments of this kind without developing funds which can accumulate on scale. Deregulation can only help to destroy the basis for socially responsible investment initiatives, to the detriment of economic regeneration in this country.

The dismantling of industrial council pension funds will also destroy one of the existing structures of industrial democracy. I do not want to claim that democracy is alive and well in all pension funds' boards of trustees. However, these have provided one of the few areas in South Africa where capital and labour have been able to find common cause around the provision and extension of benefits, and to discuss broader welfare policy. It would seem strange indeed, in these days of political change, to see the disappearance of institutions which have successfully permitted democratic practices.

One major concern of the trade union movement has been that the current thrust of economic policy in South Africa will lead to what has been called the 70/30 option. Our society will become one where 30% of the population are employed, have houses and are well provided in retirement. The remaining 70% will be excluded from the benefits of the formal economy. They will inhabit the

Township scene - such conditions could become permanent for 70% of the population as a result of the current thrust of economic policy in South Africa, part of which includes deregulation

Photo: Gill de Vlieg/Afrapix

shanty towns in conditions of squalor and poverty. On my analysis, this could be a logical outcome of the deregulation of retirement provision as a result of the demise of the industrial council system. I hope that I have shown that in this specific area, greater regulation is required. ☆

BIBLIOGRAPHY

Central Statistical Services (CSS) (1990), Statistical News Release, 25 April.

Dept of Manpower, (1989), Annual Report.

Lund, F (1990), "Some Issues in the financing of welfare in South Africa." Paper presented at the Conference on Health and Welfare in South Africa, Maputo, April.

Miller, D (1990) 'Deregulation in Practice in South Africa'. Unpublished paper presented to the National Seminar of Economic Support Groups, Paarl, March.

Moller, V, (1986) 'Black South Africans Perceptions of Financial Security in Old Age', in HSRC (1986) *RSA 2000, Ageing of the Population*, Vol 8, no 2, Pretoria.

Nicol, M (1986) 'If the law's a nuisance, get a cancellation', *Weekly Mail*, 27 March.

OECD (1988) 'Reforming Public Pensions', OECD Social Policy Studies No. 5, Paris.

Registrar of Pension Funds (1987), Annual Report.

SALDRU, 1990, *Industrial Council wage rates in South Africa, Vol 1 (1978-1988)*, UCT.

Toerien, M (1989) 'The Struggle for Industrial Councils', *Labour Bulletin* Vol 14 No 4, October.

Wassenaar, AD (1989) *Squandered Assets*, Tafelberg, Cape Town